The great controversy, however, comes with regard to the means. A, in order to advance his position in life, can carry his purpose with B by the use of any means not tortious *per se*. He can cut prices, refuse to work for B, or refuse to employ B, either in order to make B exchange his commodity on better terms, or in order to make B do some other non-tortious act for the benefit of A. And what A can thus do singly, he can persuade others to do with him in combination. In either case B has no action.[3] But it is believed that when by these acts A forces B against his will to join him in a conspiracy to use like methods towards C, C has an action against A, for the latter is using the methods of the boycott. There are three common classes of cases: (1) Where a trade-union forces a citizen of the community to combine with it in its action towards the plaintiff; (2) where a trade-union forces a master to conspire with it and discharge the plaintiff; (3) where a member of the same association or union is forced by heavy fines or other undoubted coercion to join the other members in boycotting the plaintiff. The principle in the three classes is identical. The first, which is the well-known boycott, has been declared to give the boycotted person an action;[4] the plaintiff has likewise, though with some hesitation, been allowed to recover in the second;[5] and the third class is now assimilated to the others by Martell *v.* White.[6] These decisions seem to warrant the suggestion that the view is coming to be that, while a competitor may use all means not tortious *per se*, forcing others to join a boycotting combination against the plaintiff is a means which, if not tortious *per se*, is at least in the same category. Nor is much argument needed to support so happy a result. That any individual or set of individuals should be able, by threats of damage, to construct of unwilling others a combination powerful enough to destroy whoever stands in the way of their private gain, is in the highest degree detrimental to society.

If this analysis is correct, there is still a troublesome question. As has been seen, A can persuade others to join him in his action towards his competitor. He can even offer special benefits as inducements to join him in turning against the other.[7] Thus in many cases will arise the difficult question whether B has been coerced or merely induced.[8] This, however, is a question of fact, and one which, it is arguable, might be left to the jury.

CY-PRES. — In general the rule against remoteness, commonly termed the rule against perpetuities, has no effect on the construction of limitations of estates expressed in unambiguous language. An application of the *Cy-pres* doctrine, however, gives rise to one striking exception.[1] Where lands are devised to an unborn person for life, remainder to his children in tail, either

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[3] Bohn M'f'g Co. *v.* Hollis, 54 Minn. 223; Arthur *v.* Oakes, 63 Fed. Rep. 310.

[4] Casey *v.* Cincinnati Typo. Union, 45 Fed. Rep. 135; Barr *v.* Essex Trade Council, 53 N. J. Eq. 101; Quinn *v.* Leathem, [1901] A. C. 495.

[5] Plant *v.* Woods, *supra;* Lucke *v.* Clothing Assembly, 77 Md. 396; *contra,* Martell *v.* Victorian Miners Ass'n, 25 Austr. L. T. 40.

[6] Jackson *v.* Stanfield, 137 Ind. 592; Boutwell *v.* Marr, 71 Vt. 1, *accord.*

[7] Mogul Steamship Co. *v.* McGregor, [1892] A. C. 25.

[8] See Brown *v.* Jacobs Co. 115 Ga. 429, 449, distinguishing McCauley *v.* Tierney, 19 R. I. 255.

[1] See Gray, Rule against Perpetuities 386.

successively, or as tenants-in-common with cross-remainders, the remainders to the children are clearly bad by the rule against remoteness. To avoid the effect of this rule the limitations are construed as an estate tail in the unborn person.[2] This doctrine has not been confined to a succession of estates tail, however, but has been extended to successive life estates. Under a devise to an unborn person, remainder to his children for life as tenants-in-common, so to be continued in a descending line *per stirpes* for life with cross-remainders, the unborn person has been given an estate tail.[3] In a recent case the limitations were substantially these with the exception that no cross-remainders were limited, and none could be implied, since there was no devise over.[4] *In re Richardson*, [1904] 1 Ch. 332. The reasoning of the court in holding that the *Cy-pres* doctrine does not apply, and that the estates subsequent to those of the unborn person are bad because of the rule against remoteness, suggests an inquiry into the principles underlying this rule of construction.

The application of the *Cy-pres* doctrine to these cases is said to be justifiable, for thereby, provided no holder bars his tail, the estate will go as it would have gone under the testator's limitations. This, however, does not account for the application of the doctrine to limitations of life estates. In such cases, under the testator's limitations, all children of the unborn person would have taken life estates at the same time, while after the application of the *cy-pres* construction, the younger children have merely a possibility on failure of issue of the older children. The courts say that there should be a sacrifice of the testator's special intent, as regards the order of taking, to his general intent in regard to the persons who shall take.[5] No greater sacrifice is made, for, as a recent case shows, the rule is applied only where the exact persons are included who would have been included in the testator's limitations.[6] *In re Rising*, [1904] 1 Ch. 533. In addition the rule has been applied only where there were cross-remainders, express or implied, under the testator's limitations. In such cases each person had the possibility, if the other lines failed, of getting in the whole estate, and of passing it to his children. This was practically equivalent to the estate tail which he will get under the new construction. Though the order of taking is entirely departed from, yet the general scheme of the testator is preserved. The court in the Richardson case, however, clearly indicates that it regards the doctrine as applicable only when the life tenants would have taken in the same order under the testator's limitations, in which they will take under the estate tail. It would be altogether reasonable to thus confine the doctrine to cases in which the intention of the testator will be almost exactly accomplished. Its application to cases where the order of taking will be entirely changed seems, however, well established by the cases noted. The principal case, nevertheless, though distinguishable, since there were no cross-remainders, indicates a commendable tendency to confine the doctrine within its present limits.

PAROL EVIDENCE OF WRITINGS COLLATERAL TO THE ISSUE. — The general rule that parol evidence of the contents of a document is not admissible unless for some good reason the document itself cannot be produced,

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[2] Vanderplank *v.* King, 3 Hare 1.
[3] Parfitt *v.* Hember, L. R. 4 Eq. 443.
[4] 2 Jarman Wills, 6th ed., 1339.
[5] Jessel, M. R., in Hampton *v.* Holman, 5 Ch. D. 183, 190.
[6] Monypenny *v.* Deering, 2 DeG. M. & G. 143; Seaward *v.* Willcock, 5 East 198.